

**Memorandum**

Date **JUN 11 1992**
From **Richard P. Kusserow**
Inspector General

Subject Review of the Hiring and Managing Practices for Appointed Consultants and Experts in the Department of Health and Human Services (A-15-91-00011)

To
Thomas S. **McFee**
Assistant Secretary for
Personnel Administration

The attached final report discusses the need for the Department of Health and Human Services (Department) to strengthen its controls over the hiring and managing of appointed consultants and experts. Consultants and experts, if used properly, provide a normal, legitimate, and economical way to improve Government services and operations. Departmental officials informed us the total amount spent for the use of the services of appointed consultants and experts during the first 3 quarters of Fiscal Year 1990 was \$14,488,514.

We performed our review to respond to specific concerns shared by the Office of Inspector General and Congress. Specifically, our review was performed to determine the adequacy of selected policies and procedures related to the hiring and managing of appointed consultants and experts throughout the Department.

Our review disclosed that the internal controls over hiring and managing consultants and experts need strengthening to ensure that consultants and experts: are free from financial conflicts-of-interest; are not improperly detailed and recertified; time and attendance is accurately reported; quality of work is evaluated; and hiring approvals are obtained in compliance with prevailing policies and procedures. Also, we found many instances of noncompliance with prescribed policies, procedures and regulations.

The report includes a number of recommendations for corrective actions, as appropriate. Departmental comments to our recommendation are included as Appendix A and Appendix B which are incorporated in the body of this report.

Page 2 - Thomas S. **McFee**

We would appreciate your views, and the status of any further action taken or contemplated on our recommendations, within the next 60 days. Any questions or further comments on any aspect of the report are welcome. Please call me, or your staff may contact Daniel W. Blades, Assistant Inspector General for Public Health Service Audits at (301) 443-3583.

We appreciated the courtesy and cooperation extended to our staff by Department officials in completing our work.

Attachment

cc:

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**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF THE HIRING AND
MANAGING PRACTICES FOR APPOINTED
CONSULTANTS AND EXPERTS IN THE
DEPARTMENT OF HEALTH AND HUMAN
SERVICES**



**Richard P. Kusserow
INSPECTOR GENERAL**

A-15-91-00011

EXECUTIVE SUMMARY

PURPOSE

We performed our review to respond to concerns shared by the Office of Inspector General (OIG) and Congress. More specifically, our review was performed to determine the adequacy of selected policies and procedures related to the hiring and managing of appointed consultants and experts throughout the Department of Health and Human Services (Department).

BACKGROUND

Because of their unique background and exceptional qualifications, consultants and experts provide views or opinions on problems or questions presented by the Federal agency. Consultants and experts possess a high degree of broad administrative, professional, or technical knowledge or experience which should make their advice or services an exceptionally valued contribution to the organization. Consultants and experts, if used properly, provide a normal, legitimate, and economical way to improve Government services and operations. A departmental official informed us the total amount spent for the use of the services of appointed consultants and experts during the first 3 quarters of Fiscal Year (FY) 1990 was \$14,488,514.

FINDINGS

We identified many problems in the Department's hiring and managing practices on appointed consultants and experts. We found 50 instances of noncompliance with policies and procedures governing financial disclosure statements and the transmittal of conflict-of-interest warning provisions.

Our review revealed that the Department has no specific controls in place to assure that retired annuitants are not employed on a preferential basis.

We found that correct time and attendance procedures were not always followed for consultants and experts. Furthermore, the Department does not have in place an adequate system for assessing the quality of the consultant's work. Two operating divisions (OPDIV) were not submitting quarterly review reports as required by the Department. Also, we found that the appropriate

level of approval sometimes was not obtained before consultants or experts were hired. Moreover, we believe that the Department's policy of paying consultants a full-day's pay regardless of the hours worked needs to be revised.

CONCLUSIONS AND RECOMMENDATIONS

Our review disclosed that the internal controls over hiring and managing consultants and experts need strengthening to ensure that: (1) consultants and experts are free from financial conflicts-of-interest; (2) consultants are not improperly detailed and recertified; (3) consultants' time and attendance are accurately reported; (4) the quality of consultants' work is evaluated; and (5) consultant hiring approvals are obtained in compliance with prevailing policies and procedures. Also, we believe the Department needs to re-evaluate its policy on paying consultants a full-day's pay regardless of hours worked.

We made a number of recommendations to address the problems noted above. We recommend that the Department strengthen its controls to ensure that each OPDIV and staff division (STAFFDIV) comply with the prescribed Office of Management and Budget (OMB), and the Office of Personnel Management (OPM) requirements and those prescribed by the Department.

We recommend that the Assistant Secretary for Personnel Administration (ASPER) instruct the OPDIVs in the Department to implement controls to ensure compliance with prescribed regulations and procedures. We recommend that the Department implement procedures requiring an assessment of the quality of the work performed by consultants and experts. Also, we recommend that the Department define the circumstances for which consultants or experts may be compensated the full daily rate.

DEPARTMENTAL COMMENTS

The Department issued a memorandum to the OPDIV and Regional Personnel Officers reminding them of their responsibilities relating to consultants and experts. However, the Department did not address the individual recommendations relating to improving controls over conflicts-of-interest. The Department partially concurred with our recommendations to strengthen controls over time and attendance monitoring practices. The Administration for Children and Families (ACF) plans to include specific procedures for recording the time and attendance of experts and consultants in all training for its timekeepers. However, the Department did not agree with our recommendations relating to evaluating the quality of consultants' work. The Department stated that there are no laws or regulations which require them to do so. In the areas dealing with controls over hiring approvals, the Department generally concurred with our recommendations. They have reminded their personnel staffs that all appointments must be signed by

appropriate officials. The Health Care Financing Administration (HCFA) has developed a procedural checklist for the employment of experts and consultants and also plans to instruct supervisors on the proper use of experts and consultants. The Department did not agree with our recommendation to limit the circumstances under which it will pay consultants on a daily basis regardless of the number of hours worked. The Department believes it would be difficult to obtain the services of renowned consultants if they were required to pay them on an hourly basis. The Department generally concurred with our recommendations which would strengthen controls over detailing and recertification of consultants.

Finally, the Department stated:

"In [PHS], procedures for the employment of experts and consultants were reviewed with individual health agencies and, when cases cited in the report could be identified, corrective actions were taken."

We have included a discussion of the Department's comments following each recommendation in the body of this report. The full text of the Department's comments are included as Appendix A and Appendix B.

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TABLE OF ABBREVIATIONS

AAS	- Advisory and Assistance Services
ACF	- Administration for Children and Families
ASPER	- Assistant Secretary for Personnel Administration
DOL	- Department of Labor
DOT	- Department of Transportation
Ed	- Department of Education
FD	- Food and Drug
FDA	- Food and Drug Administration
FMFIA	- Federal Managers' Financial Integrity Act
FPM	- Federal Personnel Manual
FSA	- Family Support Administration
FY	- Fiscal Year
GAM	- General Administration Manual
GS	- General Schedule
HCFA	- Health Care Financing Administration
HDS	- Human Development Services
HHS	- Department of Health and Human Services
NICHD	- National Institute of Child Health and Human Development
NIH	- National Institutes of Health
OIG	- Office of Inspector General
OMB	- Office of Management and Budget
OPDIV	- Operating Division
OPF	- Official Personnel Folder
OPM	- Office of Personnel Management
OS	- Office of the Secretary
PHS	- Public Health Service
SF	- Standard Form
SPO	- Servicing Personnel Office
SSA	- Social Security Administration
STAFFDIV	- Staff Division

INTRODUCTION

We conducted a review of selected controls governing the hiring and managing of appointed consultants and experts in the Department during the first 3 quarters of FY 1990.

BACKGROUND

The proper use of consultants and experts is a normal, legitimate, and economical way to improve Government services and operations. Federal agency activities can be strengthened by the highly specialized knowledge and skills of persons from the private sector brought into service for brief periods of need.

As distinguished from employees who carry out agencies' duties and responsibilities, consultants serve primarily as advisers. They provide views or opinions on problems or questions presented by the agency, but neither perform nor supervise performance of operating functions. Generally, consultants have a high degree of broad administrative, professional, or technical knowledge or experience which should make his/her advice distinctively valuable to the agency.

Experts are persons with exceptional qualifications and a high degree of attainment in a professional, scientific, technical, or other field. Experts usually are regarded as authorities or as practitioners of unusual competence and skill by other persons in the profession, occupation, or activity. As outlined in Department of Health and Human Services (HHS) Instruction 304-1, experts may perform operating duties if they are clearly experts in their professional field and the Department has a temporary need for the services of such experts to provide assistance of a type beyond that required of the regular work force.

Departmental guidance found in HHS Instruction 304-1 states that, because of the nature of its programs, the Department has a continuing need to seek advice and assistance from sources outside the Federal Government to help it carry out its mission. According to information provided by the Department's **ASPER**, which is responsible for personnel matters throughout the Department, there were 1,430 consultants and experts (henceforth, consultants except where otherwise noted) on board with the Department at the end of the first 3 quarters of FY 1990--the time frame included in this review. The Public Health Service (**PHS**), a major operating component of the Department, accounted for 93 percent of the total number of consultants on board with the Department during the first 3 quarters of FY 1990. A departmental official informed us the total amount spent for the use of the services of appointed consultants and experts during the first 3 quarters of FY 1990 was \$14,488,514.

The use of consultants by the Department is governed by: (1) the OMB Circular A-120, "Guidelines for the Use of Advisory and Assistance Services" (AAS); (2) the OPMS "Federal Personnel Manual" (FPM); (3) "HHS General Administration **Manual**" (GAM); and (4) the Department's "HHS Personnel Manual." As defined in the OMB Circular A-120, AAS are defined as, those services acquired from non-governmental sources by contract or by personnel appointment' to support or improve agency policy development, decision-making, management, and administration, or to support or improve the operation of management systems. Such services may take the form of information, advice, opinions, alternatives, conclusions, recommendations, training, and direct assistance.

According to the OMB Circular A-120, agencies may use consulting services as a legitimate way to²:

- enhance the understanding of, and develop alternative solutions to, complex issues:
- obtain advice regarding the latest developments in research:
- obtain the opinions, special knowledge, or skills of recognized experts whose prestige can contribute to the success of important projects: and
- support and improve the operation of organizations.

Consulting services are not intended to be used to:

- perform work of a policy, decision-making, or managerial nature, which is the direct responsibility of agency officials:
- bypass or undermine personnel ceilings, pay limitations, or competitive employment procedures;
- preferentially make awards to former Government employees; or
- obtain professional or technical advice which is readily available within a Federal agency.

The OMB Circular A-120 establishes specific controls over the use of consulting services. For instance, the Circular states that: (1) each requirement for consulting services be fully justified

¹AAS can also be obtained through purchase orders.

²Examples are not intended to be all inclusive.

in writing; (2) work statements be specific, complete, and specify a fixed period of performance of the consulting services; (3) appropriate disclosure is required of, and warning provisions given to, consultants to avoid conflicts-of-interest; and (4) the service is properly evaluated at the conclusion of the arrangement to assess its utility to the agency and the performance of the contractor.

Additional policies relating to the use of consultants within the Department are developed by the **ASPER**. Each OPDIV and STAFFDIV in the Department may issue supplemental guidance, as desired. Consultant appointments are administered by personnel offices throughout the Department.

OBJECTIVES, SCOPE, AND METHODOLOGY

This report presents the results of our review of selected controls over the hiring and management of appointed consultants throughout the Department whose personnel records are maintained in the Washington, D.C. and Baltimore metropolitan areas. Specifically, in response to congressional and OIG concerns regarding consultant services, we sought to determine:

- (1) the adequacy of controls to preclude hiring consultants that might have financial conflicts-of-interest;
- (2) the adequacy of controls to avoid the use of retired annuitants to perform work that could or should be performed by career Federal employees;
- (3) the adequacy of systems to report consultants' time and effort;
- (4) the adequacy of systems to oversee the quality of consultants' work;
- (5) the adequacy of consultant hiring approvals; and
- (6) the appropriateness of the Department's policy of paying some consultants on a daily basis regardless of the number of hours worked.

We did not review consultant appointments managed in the Department's regional offices. Also, we did not evaluate the review process. We examined the use of appointed consultants during the first 3 quarters of FY 1990--the latest period of time for which data was available when we began our fieldwork. Although we did not include advisory committee members within the scope of this review, we examined as part of OIG's review of the PHS implementation of the Federal Managers' Financial Integrity

Act (FMFIA) for FY 1990,³ National Institutes of Health's (NIH) internal control review of personnel administration. The NIH review included applicable internal controls on consultants, experts, and advisory **committee** members.

Our review was conducted in accordance with generally accepted government auditing standards. Audit work was performed between August 1990 and January 1991.

In performing this review, we:

- identified and analyzed Governmentwide, departmental, and agency policies and procedures relating to the objectives of this review that were in force during the first 3 quarters of FY 1990;
- interviewed dozens of knowledgeable officials throughout the Department regarding the selected management controls included within the scope of this review;
- obtained information from personnel officials in four other Federal Departments (civilian departments similar to this Department and/or which we believed might employ a large number of consultants) to determine whether they have policies in place which allow them to pay consultants on a daily basis regardless of the number of hours worked;
- obtained information from four private sector organizations representing consultants or which had reportedly performed studies of private sector pay practices, to determine whether consultants in the private sector are paid on a daily basis regardless of the number of hours worked;
- examined **time** and attendance practices and records in 10 judgmentally selected program offices in the Washington, D.C. and Baltimore metropolitan areas to determine the adequacy of controls to ensure accurate reporting of the amount of **time** worked by consultants and, ultimately, the accuracy of payments made to such employees;

³The Division for Public Health Service Audits Summary of the Public Health Service's Implementation of the Federal Managers' Financial Integrity Act for FY 1990 (OIG/A-15-90-00005, December 19, 1990), pp. 4-5.

- spoke with 17 supervisors of consultants to determine how the quality of consultants' work is appraised, if at all;
- reviewed selected consultant personnel files and financial disclosure statements managed in the Washington, D.C. and Baltimore metropolitan areas to determine compliance with policies and procedures relating to the review objectives:
- contacted 28 consultants included in our review to determine if they had been given conflict-of-interest warning provisions and, in those cases where financial disclosure statements were not available, whether they had completed such forms: and
- also worked closely with the Department's Ethics Office.

We reviewed 65 randomly selected PHS consultant personnel files and financial disclosure statements available in the Rockville and Bethesda, Maryland and Washington, D.C. areas to determine compliance with policies and procedures relating to the review objectives.

For other Department components, we reviewed selected personnel files and financial disclosure statements of consultants maintained by the Servicing Personnel Offices (SPO) in five OPDIVs. We stratified our review by SPOs in the Washington, D.C. and Baltimore metropolitan areas. The SPOs manage all personnel appointments, including consultant appointments, for their assigned OPDIVs within the Department. We identified one SPO that services the Office of the Secretary (OS), the Office of Human Development Services (HDS), and the Family Support Administration (FSA). Another SPO services the Social Security Administration (SSA). A third services HCFA.

We selected 12 consultant files and financial disclosure statements to review in the SPO servicing OS, HDS, and FSA, and 10 personnel files and financial disclosure statements for both SSA and HCFA. Because of the limited number of files we reviewed in each SPO, we cannot generalize the results of these reviews to the OPDIVs. However, our sample was large enough for us to draw conclusions and make recommendations regarding the need for improved controls over certain aspects of the hiring and managing of consultants.

As part of this overall review, we evaluated the adequacy of those internal controls relating to the policies and procedures in place to accomplish the audit objectives.

FINDINGS AND RECOMMENDATIONS

The selected management **controls** we reviewed, in our opinion need to be strengthened to ensure that: consultants are free from financial conflicts-of-interest: consultants' **time** and attendance is accurately reported: the quality of consultants' work is evaluated: and consultant hiring approvals are obtained in compliance with prevailing policies and procedures. Our review of the appropriateness of the Department's practice of paying some consultants on a daily basis regardless of the number of hours worked was inconclusive--while the Department is in compliance with Governmentwide policies, other Federal Departments impose stricter controls over this practice. Finally, we found that a consultant was hired to perform work which could have been done by a career civil service employee and that consultants were detailed to work on projects significantly different from that on the pre-appointment form and that the detail was not disclosed through the certification process.

CONTROLS TO PREVENT FINANCIAL CONFLICTS-OF-INTEREST NEED TO BE STRENGTHENED

Policies and Procedures

Consultants are prohibited from using their Government office for a purpose that is, or gives the appearance of being, for private gain for oneself or others, particularly those individuals with whom there is family, business, or financial ties. Every consultant has a positive duty to become acquainted with each statute that relates to ethical conduct as an employee of the Federal Government and the employing agency. The Federal Government also has a responsibility to assure that there is no conflict-of-interest between the private interests of a consultant and his or her Federal employment.

The Ethics in Government Act, as amended, imposes controls to avoid financial conflicts-of-interest over the hiring of consultants and other employees. Title 18 of the U.S. Code, sections 203, 205, 207, 208, and 209, establishes severe penalties for prescribed conflict-of-interest violations. The OMB Circular A-120 requires that each agency assure that appropriate disclosure is required of and warning provisions are given to consultants to avoid conflicts-of-interest. The Department in its regulations, the GAM and its Personnel Manual provides further operational guidance concerning **conflicts-of-interest**.

To determine whether any possible conflicts-of-interest exist between a prospective consultant's official Government duties and his/her other employment and financial interests, the Department obtains information from each prospective consultant in the form of financial disclosure statements. These statements include

information on all other employment engaged in by the prospective consultant as well as all of his/her financial interests which relate either directly or indirectly to his/her consulting duties and responsibilities. These statements or reports must be submitted and approved at the time of appointment, and should be kept current as long as the employee is on the agency's payroll. Requirements for filing financial disclosure reports or statements are found in Subpart I of the Department's Standards of Conduct regulations. These requirements state that:

- consultants who will work more than 60 days in a calendar year and whose rate of pay is equivalent to the rate for General Schedule (GS)-16, Step 1, must file public financial disclosure reports under the Ethics in Government Act of 1978, Public Law 95-521, as amended (Standard Form (SF)-278--Executive Personnel Financial Disclosure Report); and
- most other consultants must file a "Confidential **Statement** of Employment and Financial Interests," (form HHS-474); Food and Drug Administration (FDA) employees use form Food and Drug ((FD)-2637).

Public financial disclosure reports are generally filed with the designated agency ethics official at the agency in which the individual will serve. Two individuals designated as reviewing officers then review each report. Each report is reviewed to determine whether the disclosed employment and financial interest will be in conflict with the consulting duties and responsibilities of the reporting individual. In the event any conflict-of-interest has not been resolved by these two reviewing officers, the matter is referred to the head of the OPDIV/STAFFDIV in which the reporting individual will serve for resolution. Whenever a reviewing official is satisfied that a public financial disclosure form reveals that no **conflicts-of-interest** exist, he/she will sign the certification on page 1 of the form.

Each form HHS-474, must be reviewed, approved, and signed by the head of an OPDIV or an official designated with the authority to approve outside work of career civil service employees. The FDA requires two management level officials' signatures on its form FD-2637, (1) the sponsoring official and (2) the approving official.

The SPO that supports the selecting official is responsible for reviewing appointment procedures and documents to ensure that all requirements have been met. More specifically, the SPO is responsible for: (1) ensuring that the confidential disclosure statements are reviewed by an official authorized to do so;

(2) assisting the reviewing official in getting additional information if necessary: and (3) obtaining/maintaining the statement of duties, the original copy of the form HHS-474, a copy of any request to the Department Ethics Counselor or Deputy Ethics Counselor for advice, and the reply.

The SPO is also responsible for ensuring that the consultant is given either a copy of the complete HHS Standards of Conduct regulations or a package made up for consultants consisting of a copy of the Standards of Conduct... In Brief handbook and the reference materials that are mentioned in Subpart J of the Department's Standards of Conduct regulations.

For every consultant, the SPO must establish an Official Personnel Folder (OPF) which, among other things, must contain certification that a form HHS-474 has been obtained and it has been determined that no conflict-of-interest exists. The SPO that maintains the employee's OPF, maintains a separate file (not in the OPF) of completed **form[s]** HHS-474.

Agencies should retain the form HHS-474 for no less than 5 years following the employee's separation from the agency. The SF-278 public financial disclosure forms should be retained and made available to the public for a period of 6 years after receipt of the forms.

In addition to the requirements for reviewing the form HHS-474, each proposed consultant appointment (and extension of appointment) must undergo a pre-appointment review. In this process, which is documented on form HHS-410, each appointment is reviewed to ensure compliance with all relevant policies and procedures, including those relating to conflicts-of-interest, and certified by a high management official to whom selecting authority has been delegated as well as an official with appointing authority.

Results of Review

We identified 50 instances of noncompliance with the policies and procedures governing financial disclosure statements and the transmittal of conflict-of-interest warning provisions to consultants during our review of consultant files. These instances of noncompliance indicated that managers could do more to implement the required controls governing conflict-of-interest determinations. For instance, in PHS, we could not find appropriate, completed financial disclosure statements for 3 of the 65 consultant cases we reviewed--2 were missing and in 1 case the wrong financial disclosure form was used.

We also found that 11 consultants' financial disclosure forms of 31 reviewed in FDA were signed by a **GS-7/8** committee management assistant **"for"** the branch chief who conducted the **conflict-of-**

interest review as the sponsoring official. Eight cases involved the Center for Drug Evaluation and Research; three involved the Center of Devices and Radiological Health in FDA. Specifically, we found that committee management assistants were given the responsibility by their supervisor to review and **signoff** on financial disclosure forms for their supervisor as the sponsoring official. The same supervisor then signed the forms as the concurring official, circumventing the internal control requirements developed by FDA.

In these same two offices, we noted three instances where the same officials signed the FD-2637s twice, once as the authorizing manager and again as the approving official. This practice of having the same official review and approve the FD-2637s also circumvents internal control requirements.

We discussed these issues with FDA officials who generally agreed with our recommendations. The officials agreed to require two manasement officials to review and approve all **conflict-of-interest** determinations. However, the officials believed that the system did provide assurances that no conflict-of-interest exists.

We also found that three of the PHS consultants' financial disclosure forms we reviewed were approved after the date on which the consultant began work. One consultant interviewed by phone had not received the information on conflict-of-interest. This is a violation of departmental procedures and a weakness that could result in the hiring of consultants with **conflicts-of-interest**.

Our review of PHS' implementation of the FMFIA for FY 1990⁴ disclosed problems that OIG considers to be significant in the National Institute of Child Health and Human Development (NICHD), within the NIH. A NICHD team conducted an internal control review of personnel administration and reported that: (1) conflict-of-interest statements were missing for one of five files reviewed; and (2) four other statements were incomplete. The team did not report these problems as a material weakness. However, OIG believes that these problems are significant because such omissions **may** result in conflicts-of-interest being undisclosed.

In SSA, financial disclosure statements for 2 of the 10 consultants reviewed could not be found. These consultants, when questioned, told us that they had completed these forms.

⁴Ibid.

However, SSA could not explain their absence. One of the eight financial disclosure statements that was available was not signed by any SSA official indicating whether a conflict-of-interest existed.

In HCFA, a financial disclosure statement could not be found for 1 of the 10 consultants included in our review. When questioned, the consultant whose statement was missing told us that he had completed this form. The HCFA could not explain the absence of the financial disclosure form. Six consultants interviewed by phone stated that they had not received information regarding the Department's Standards of Conduct. In addition, only one of the nine available financial disclosure forms was signed by a reviewing official--the HCFA Administrator--and he did not indicate whether there was a conflict-of-interest present.

In OS, HDS, and/or FSA, our audit revealed several weaknesses in the process of making conflict-of-interest determinations. We found that in 2 of the 12 consultant appointments reviewed, the consultants began work prior to approval of a financial disclosure statement. We could not find public financial disclosure statements for two of the five consultants included in our review. We also identified two financial disclosure forms that excluded important information regarding consultants' outside employment and/or financial interests that could lead to conflicts-of-interest. In two other cases we reviewed, we did not find any indications that conflict-of-interest warning provisions were given to consultants when entering on duty. Finally, three consultants when interviewed stated that they had not received any data on conflict-of-interest requirements and were not aware of the Standards of Conduct.

These weaknesses occurred in OS, HDS, and/or FSA because neither the SPO nor the ethics office has a system in place to monitor compliance with financial disclosure requirements.

Conclusions and Recommendations

We believe that controls need to be strengthened to ensure that before a consultant commences work all financial disclosure forms are submitted and properly approved by appropriate management officials, and that they include all pertinent information. In addition, controls need to be strengthened to ensure that all consultants receive the Department's Standards of Conduct regulations. Therefore, we recommend that the Department strengthen controls to ensure that:

- every consultant submit a financial disclosure form (public or confidential, as appropriate), which contains full disclosure of outside employment and financial interests, prior to entry on duty;

- every financial disclosure form is reviewed and approved by the authorized management officials;
- the OPDIVs implement stronger controls to monitor the timely and accurate completion of the forms HHS-474s and SF-278's; and
- all consultants are given a copy of the Department's Standards of Conduct regulations.

DEPARTMENTAL COMMENTS

The Department issued a memorandum to the OPDIV and Regional Personnel Officers reminding them that the proper forms must be completed by consultants and experts prior to the commencement of work.

OIG COMMENTS

The Department needs to establish procedures which would ensure that controls relating to the above recommendations are strengthened. There is no indication in the Department's comments that any specific procedures have been, or are in the process of being developed. The Department did not address the individual recommendations relating to improving controls over conflicts-of-interest.

CONTROLS OVER TIME AND ATTENDANCE COULD BE STRENGTHENED

Policies and Procedures

Similar to career civil service employees, the Department must have a system in place to accurately record the amount of time consultants spend working on Government business under the terms of their appointments. According to departmental policy, for each biweekly period in which a consultant performs services, a consultant/expert time and attendance report must be prepared.

Results of Review

During our review, we examined the actual time and attendance practices at six judgmentally selected offices employing consultants in PHS and SSA. We also reviewed the practices used to record time and attendance for 8 consultants employed by 1 bureau within HCFA and the 12 consultants employed by either OS, HDS, and/or FSA.

In PHS, we found that the three offices included in our review had different, although generally adequate, systems in place to record the time worked by consultants. We found one instance in

which the timecards for a consultant were being reviewed and approved by a subordinate of the consultant--an internal control weakness. This occurred at NIH where consultants can hold operational positions under special hiring authorities. We were told that this was done as a matter of convenience--the supervisor of the consultant worked in a different building than the consultant. As a result of our review, the office involved acknowledged the impropriety of this arrangement and agreed to take corrective actions.

In SSA and HCFA, we also found that the offices we reviewed for **time** and attendance practices had different, albeit adequate, **systems** for recording time and attendance for consultants. In two of the offices reviewed in SSA and with some of the consultants whose time and attendance we reviewed in HCFA, the consultants did not sign a timesheet certifying the accuracy of reported time worked. However, in each office reviewed, supervisors were required to review and approve timecards based on their knowledge of when consultants worked and the nature of their duties.

In OS, HDS, and/or FSA, we found weaknesses in time and attendance reporting procedures for 3 of the 12 consultants included in this review--monitoring by timekeepers and supervisors was absent in each case. In two instances, consultants' timecards were approved by officials with little knowledge of the consultants' attendance. In one of these cases, timekeepers did not properly record a consultant's leave accrual and usage. As a result, the appointee did not receive the authorized lump sum annual leave payment upon expiration of the appointment. In a third case, a consultant hired and classified as an intermittent consultant (one who works occasionally or irregularly for not more than 130 days during any 365 day period) was working hours similar to a full-time employee. After 130 days working on an intermittent basis, the intermittent status was terminated and the individual was converted to a temporary appointment status (one who works on a full- or part-time basis for a period not to exceed 1 year). Further review revealed that the consultant worked similar hours under both appointments.

Conclusions and Recommendations

Based on our observations, we believe that controls over the recording and reporting of consultants' time and attendance could be strengthened. We noted that in some cases, consultants are not required to verify the number of hours worked and reported on their behalf. Also, **some** officials who approved consultant timecards were not sufficiently familiar with the actual hours worked by consultants. To strengthen time and attendance controls, we recommend that the Department require:

- consultants to sign or otherwise verify the accuracy of the information submitted on their timecards regarding the number of hours worked:
- that only supervisory **management** officials familiar with the actual time worked **by** consultants approve consultant timecards;
- program offices to correctly classify consultant appointments as intermittent or temporary and ensure that the **time limitations** which are part of each of these classifications are respected: and
- timekeepers be trained as to leave accrual and usage policies regarding consultants.

DEPARTMENTAL COMMENTS

The Department partially concurred with our recommendations. The ACF plans to include specific procedures for reporting the time and attendance of consultants and experts **in** all training for its timekeepers.

OIG COMMENTS

The Department comments did not specifically contain details regarding the implementation of controls relating to all the recommendations **above**. We believe the Department should take specific actions to implement the remaining recommended controls in this area.

DEPARTMENT NEEDS TO EVALUATE THE QUALITY **OF** CONSULTANTS' WORK

Policies and Procedures

The OMB Circular A-120 requires that each agency assure that **AAS** arrangements are properly administered and monitored to ensure that performance is satisfactory. Also, the Circular requires that **AAS** be properly evaluated at the conclusion of the period of service to assess their utility to the agency and the performance of the contractor.

According to an official in the Division of Employment and Program Coordination, **ASPER**, there is no departmental guidance directing agencies to assess the quality of the work performed by consultants. Rather, the official explained that it is up to the agencies to set their own policies on this matter.

Results of Review

During our review, we did not find **any** departmental or agency policies addressing the assessment of the quality of consultants' work. Moreover, we did **not** identify any formal systems to evaluate the quality of the work performed by consultants in **any** of the offices we reviewed. There was also no other evidence in the **OPFs** indicating the adequacy of the work performed **by** consultants.

When asked about how their agencies determine that the quality of work performed **by** consultants is adequate, we were repeatedly referred to the quarterly reviews of consultant appointments performed by **SPOs**. As provided in the FPM, departmental guidance directs that **SPOs** perform quarterly reviews of consultant appointments to ensure that in each case: duties performed are still those of a consultant; time limits are being observed; documentation is kept current; and duties of record are actually being performed. The adequacy of consultants' work is not evaluated during the quarterly reviews. The reviews are required to be conducted for all consultants who were paid for more than 10 days of work during the quarter regardless of whether the individual was separated during the quarter or the appointment expired during the quarter.

We noted several weaknesses in the quarterly reporting system. We found that HCFA and the Health Resources and Services Administration of PHS were not performing the required quarterly reviews. In addition, in OS, HDS, and/or FSA we found that quarterly reports were not performed in a timely manner since the reviews were completed several months after the quarter had ended. It appears that **ASPER** was not effectively monitoring the quarterly reporting process to ensure that all required reports be submitted and are submitted on time.

Conclusions and Recommendations

Because the Department and its agencies do not assess the adequacy of the work performed by consultants, it cannot ensure that the work performed was satisfactory and the use of consultants was necessary. Also, it has no objective basis on which to decide whether to hire a consultant again in the future. Therefore, we recommend that the Department:

- develop and implement a system to assess the quality of consultants' work: and
- ensure that quarterly reports are completed **timely**, effectively and accurately so that identified problems can be corrected.

DEPARTMENTAL COMMENTS

The Department did not concur with our recommendations, instead they stated:

"...we believe it would not be practical to establish a **system** of assessing the work of experts and consultants because of the nature and duration of such assignments. There are no laws or regulations that require Federal agencies to establish performance management **systems** for experts and consultants,"

In addition, the Department stated:

"Most experts and consultants employed by HHS provide to PHS health agencies advisory services regarding research on basic medical, biological, or other phenomena. These types of services are excluded from OMB Circular A-120."

OIG COMMENTS

In our opinion, good management practices dictate the need for a **system** or procedures which would monitor and evaluate the quality of consultants' performance. In addition, although the Department stated that many advisory services regarding research on basic medical, biological or other phenomena are excluded from Circular A-120, we did not include these types of appointments in this review. Those appointments were examined and reported on separately. Moreover, the Department needs to develop procedures to ensure that quarterly reports are completed **timely**, effectively and accurately so that identified problems can be corrected. As of the last day of our fieldwork, the quarterly reports did not address the adequacy of consultants' work. The Department should consider including this factor in the quarterly reports.

CONTROLS OVER HIRING APPROVALS NEED TO BE STRENGTHENED

Policies and Procedures

The OMB Circular A-120 directs that written approvals of all **AAS** arrangements be obtained at a level above the organization sponsoring the activity.

While not specifically directing that **AAS** appointments be approved one level above the sponsoring organization, departmental guidance requires that each proposed consultant appointment (and extension of appointment) be approved by a **high-**

level management official to whom selecting authority has been delegated and the official with appointing authority. They are to determine the:

- necessity for obtaining the individual's services;
- correctness of the judgment that the duties to be performed require the services of a consultant:
- propriety of designating the appointment as temporary or intermittent:
- soundness of the decision that this is the most appropriate appointment authority:
- qualifications of the proposed appointee;
- appropriateness of the proposed level of pay in relation to both the work to be performed and the qualifications of the proposed appointee:
- completeness of documentation; and
- absence of conflicts-of-interest.

This process, known as pre-appointment certification, is documented on the form HHS-410 which is retained in each appointee's OPF. All consultant appointments must be approved by the appointing authority prior to the effective date of the appointment.

Results of Review

We found that the appropriate level of approval was sometimes not obtained by the OPDIVs we reviewed. For instance, in FDA, we found 13 of the 31 consultant appointments included in our review did not have the appropriate hiring approvals. In 11 of the cases, signatures of the program manager or the appointing official were missing on the form HHS-410. In 4 of the 13 cases, GS-7/8 committee management assistants who did not have the authority or had been improperly given authority to approve consultant appointments signed as the authorizing manager on the form HHS-410.

Also in PHS, we could not find the form HHS-410 for two consultant appointments. As a result, we could not determine whether the appropriate hiring approval had been obtained for these two appointments. In addition, two PHS consultant appointments were approved after the dates on which the consultants were scheduled to begin work.

In HCFA, one consultant did not have the required form HHS-410 in his/her OPF; HCFA could not explain the absence of this form. Also, one form HHS-410 which was present in the OPF was signed by an unauthorized appointing official. The HCFA said that this was an administrative error. We also identified one form HHS-410 that was approved by an official that we could not determine was authorized to do so.

In OS, HDS, and/or FSA, we noted that a high-level management official was the appointing authority for a consultant who was directly under his control--approval was not obtained at least one level above the sponsoring organization. According to the management official, he did this because there was no higher level authority within his component who could be asked to approve the appointment. In another case, the approving official signing a form HHS-410 had no knowledge of the person being appointed. The Acting Assistant Secretary for FSA authorized a consultant appointment, however, in a subsequent interview with our staff, said that she had never heard of the consultant. Also, we noted that three form HHS-410s were not signed by either the appointing or selecting officials and two forms were not dated by the personnel authority.

Conclusions and Recommendations

Departmental guidance does not ensure that consultant appointments are made at least one organizational level above the sponsoring organization as required by OMB Circular A-120. We also recognize that the FPM does not include the OMB Circular A-120 requirement that consultants' appointments are to be made at least one organizational level above the sponsoring organization.

Because some form HHS-410s were not available in the OPFs reviewed, we could not determine whether all consultant appointments were necessary and executed in compliance with prevailing policies and procedures. Also, lack of dates on some form HHS-410s rendered us unable to determine whether appointments were approved prior to the consultant commencing work. In addition, lack of reviews by appropriate management officials causes questions to arise about the degree of concern management is placing on the approval process. Further, the fact that an official signed off on a form HHS-410 of a consultant that she had never heard of, is an indication of the limited scrutiny of forms by approving officials. These identified errors made during the course of the pre-appointment certification process call into question the effectiveness of that system. To correct these problems, we recommend that the Department:

- ensure that all consultant appointments are approved at least one level above the sponsoring organization;
- direct that the form HHS-410 be completed and filed in the OPF for each consultant appointment;
- ensure that proper authorities approve consultant appointments who are familiar with the work to be done and the qualifications of the person hired to perform those functions: and
- instruct **SPOs** to review all form HHS-410s to ensure that they are complete and properly prepared.

DEPARTMENTAL COMMENTS

The Department issued a memorandum to the OPDIV and Regional Personnel Officers emphasizing that both selecting and appointing officials must certify to the necessity of the appointment as well as the appropriateness of all aspects of such appointments prior to their effective dates. In addition, the Department stated:

"We have reminded our personnel staffs that all appointments and recertification of experts and consultants must be signed by appropriate management officials who, in the case of recertification, are knowledgeable about the quality of the work of the expert or consultant."

In addition, the Department stated:

"ACF has made a policy change which requires that all future authorizations for expert or consultant appointments in that organization be approved by the Deputy Assistant Secretary for Operations.

"HCFA has developed a procedural check list for the employment of experts and consultants and also plans to develop an internal policy guide to instruct supervisors on the proper use of experts and **consultants**."

OIG COMMENTS

We believe a memorandum is not sufficient guidance. Therefore, the Department should issue policy guidance which includes the OMB Circular A-120 requirement that consultant appointments are made at least one organizational level above the sponsoring organization. The Department should also develop procedures to ensure that the form HHS-410 is complete, properly prepared, and reviewed by the appropriate SPO and filed in the OPF for each consultant appointment.

DEPARTMENT POLICY ALLOWS SOME CONSULTANTS TO EARN A FULL-DAY'S
PAY FOR A PARTIAL-DAY'S WORK

Policies and Procedures

Consultants **may** be paid on an hourly or daily basis--temporary consultants are usually paid on an hourly basis, while intermittent consultants, the more common arrangement in the Department, are usually paid on a daily basis. The basic difference between these two pay bases is that a consultant paid on an hourly basis is paid at his or her hourly rate for each hour worked, whereas a consultant paid on a daily basis can be paid at his or her full daily rate for each day worked regardless of the number of hours involved. Usually, consultants are not paid for more than 8 hours of work per day.

According to the Acting Director, Division of Employment and Program Coordination, **ASPER**, there is no documentation outlining the rationale for the policy of paying a full-day's pay for a partial-day's work. However, the Acting Director explained that the policy was implemented to help attract quality people to work for the Department. The Acting Director explained that while a consultant **may** often be hired to provide only a few hours of work, such as when hired to speak at a meeting, he or she may actually spend additional time preparing for the assignment and/or traveling to the work site. The policy of providing a full-day's pay, therefore, helps to compensate for the unofficial time spent in relation to one's official duties. In addition, according to the Acting Director, this policy helps to compensate for the lack of overtime pay--often consultants work for more than 8 hours per day but do not receive compensation for the amount of **time** worked over 8 hours. This explanation was repeated to us by several personnel officials in SSA, HCFA, and PHS. In addition, none of these officials reported having encountered abuses of this policy.

Results of Review

We contacted four other Federal departments to determine whether they also have policies allowing some consultants to be paid on a daily basis regardless of the number of hours worked. We found that three of them place more restrictions than this Department on paying a full-day's pay for a partial-day's work and one does not allow it at all. The Departments of Education (Ed), Transportation (DOT), and Labor (DOL), restrict paying consultants on a per diem basis, that is, paying a full-day's wages regardless of the number of hours worked. A personnel official in the Department of Defense told us that it does not pay any consultants on a daily basis.

The Ed guidance states that the per diem pay basis is only to be used for intermittent consultants when the employee's regular employment is expected to be interrupted for most of the day(s) on which services are to be performed. The **DOT** reported that, based on a Civil Service **Commission** guidance dated October 1964, it only pays intermittent consultants a full daily rate when the services that the consultant is providing to the Government effectively interrupt their ordinary pursuits for **most** of the day. A personnel official at **DOL** reported that it pays intermittent consultants for a full-day's work only: (1) when they work a full-day: or (2) if they **must** travel to the work site from outside of a defined commuting area (as defined by OPM or DOL) and are prevented from engaging in their usual employment due to the necessity for travel.

We also tried to determine whether it is a common practice in the private sector for companies to pay consultants on a daily basis regardless of the number of hours worked. We identified and contacted four private sector organizations representing consultants which had reportedly done studies of private sector pay practices as well as DOL and OPM. Two of the companies contacted indicated that they did not have any data or studies available related to this issue; the others wanted us to engage their services. The Government's representatives stated that they did not have any information on compensation practices for consultants or experts employed in the private sector. Therefore, our research was inconclusive.

Conclusions and Recommendations

The Department's policy of paying some consultants a full-day's pay for a partial-day's work is consistent with Governmentwide policies. While this policy could result in paying some consultants for time not spent in connection with Government business, there are compelling reasons for paying some consultants on a daily basis, such as when they must spend a significant amount of time traveling to a work site. However, it appears that the Department has fewer controls over the use of this pay authority than other Federal departments we contacted. It also appears to us that the controls employed by other agencies, if adopted by the Department, would provide additional assurance that its payment policy in this area is appropriate in all instances. We believe that the Department should impose restrictions on the circumstances under which consultants are paid on a daily basis and therefore realize some savings. We recommend that the Department:

- limit the circumstances under which it will pay consultants on a daily basis regardless of the number of hours worked; and

- establish a policy similar to that used by other Federal agencies to define when and how it will pay consultants on a daily basis.

DEPARTMENTAL COMMENTS

The Department did not concur with our recommendations and provided the following justification:

"We believe that the HHS policy on how experts and consultants are paid should not be changed. Moreover, it would be very difficult for HHS to obtain the substantial services of renowned medical experts or scientists if we were required to pay them on an hourly basis. HHS Instruction 304-1-f(2) requires that temporary experts and consultants be paid on an hourly basis. However, intermittent experts and consultants, who are often paid on a daily basis, usually work for a very few days, and it would not be cost effective for the Department to measure their contributions in terms of the number of hours worked. The report described no specific infractions of Federal law or regulations or abuse of policy involving pay of experts and consultants. There are times in which experts and consultants must work more than 8 hours in a day, and in these cases, HHS is prohibited from paying them overtime or for the actual number of hours they work. Even when consultants and experts do spend less than an entire day providing services for HHS, they often must interrupt their normal professional pursuits for an entire day."

OIG COMMENTS

Although the Department expressed concerns regarding the ability to obtain the services of renowned experts, we believe the fact that other Federal agencies have restrictions on per diem payments indicates that it would not necessarily have this effect. We still believe our recommendations are appropriate.

STRENGTHEN CONTROLS OVER DETAILING AND RECERTIFICATION OF CONSULTANTS/EXPERTS

Policies and Procedures

According to Chapter 304-A-2 of the FPM, agencies are required to maintain effective controls over use of appointees during employment. Furthermore, the control measures are to assure that: (1) duties performed are still those of an expert or consultant: (2) time limits are being observed: (3) documentation is kept current; and (4) duties of record are actually being performed.

In addition, the HHS Instruction 304-1 states that consultants will not be employed in the Department to: (1) fill positions that are subject to the civil service and classification laws or in cases where regular employees are available and have the skills and knowledge to perform the work; (2) bypass or undermine personnel ceilings, pay limitations, or civil service appointment procedures; or (3) perform the duties of a continuing, full-time position.

Results of Review

Generally, the pre-appointment review process includes controls to ensure: the necessity for obtaining an individual consultant's services; the correctness of the judgment that the duties to be performed require the services of a consultant; and the propriety of designating the appointment as temporary or intermittent. As part of this review, each proposed consultant appointment (and extension of appointment) must be reviewed and certified by a high management official to whom selecting authority has been delegated and the official with appointing authority. The results of the pre-appointment review are documented on the form HHS-410.

Our review of consultants employed by OS, HDS, and/or FSA included a consultant hired by FSA and detailed to work in HDS to perform work significantly different from that outlined on the pre-appointment review form, form HHS-410. According to form HHS-410, the appointee was hired to advise the Assistant Secretary of FSA on the development and implementation of public affairs/relation strategies in regard to welfare reform legislation. Discussions with the HDS supervisor disclosed that the individual was actually cataloging a group of videos and other reference material. We believe that these services could have been accomplished by a career civil service employee. Furthermore, we do not believe that the appointee performed services commensurate with the grade level at which he was appointed as an adviser to the Assistant Secretary.

The SPO was unaware of the detailing by FSA since FSA continued to pay the consultant's salary. Additionally, the detailing was not disclosed through the quarterly recertification process. Through this process, SPOs are responsible for assuring that: the services rendered by consultants (who have been paid for more than 10 day's work during the quarter) are still necessary and continue to be those of a consultant or expert as defined in the FPM; the duties of record are actually the ones being performed; and specified time limits regarding the duration and type of appointment are being observed. In discussion with the cognizant SPO, we found that little emphasis was being placed on the recertification process. In fact, we identified two other FSA appointees, who were not included in our review, and were

detailed to work at the White House, but did not have recertification available documenting their revised duties.

Conclusions and Recommendations

The problems we identified during our review cause us to believe that controls over the detailing and recertification of consultants and experts need to be strengthened at the FSA. Therefore, we recommend that the Department:

- prescribe conditions on the detailing of appointed consultants and experts to other duty stations and duties performed not included in their certifications;
- reemphasize the importance of periodic certification and consider selectively testing whether consultants/experts are performing the duties for which they were hired: and
- assure that OPDIVs/STAFFDIVs hire consultants/experts only for duties which cannot be performed by civil service employees.

DEPARTMENTAL COMMENTS

The Department concurred and has issued a memorandum to OPDIVs and Regional Personnel Officers reminding them that program managers are responsible for ensuring a revised form HHS-410 is submitted when there are changes in the actual duties of record.

The memorandum also, reminded program managers that when an expert or consultant is recertified, recertification must be submitted by a management official who is knowledgeable about the quality of the work the individual previously performed.

OIG COMMENTS

Although the Department concurred, their comments contained no specific corrective action procedures. This provides little assurance that similar problems will not be repeated. Therefore, we recommend that the Department implement some procedure to assure that these problems do not recur.

APPENDICES



DEPARTMENT OF HEALTH & HUMAN SERVICES

RECEIVED

Office of the Secretary
APPENDIX

OFFICE OF THE SECRETARY

Washington, D.C. 20201

DEC 26 AM 10:29

IG	✓
PDIG	✓
DIG-AS	✓
DIG-OI	✓
AIG-MP	✓
OGC/IG	✓
EX SEC	✓
DATE SENT	12/26

DATE: DEC 20 1991

FROM: Assistant Secretary for
Personnel Administration

SUBJECT: Review of the Hiring and Managing Practices for
Appointed Consultants and Experts in the Department of
Health and Human Services (A-15-91-00011)

TO: Richard P. Kusserow
Inspector General

This is in response to your memorandum of November 13, 1991 and the draft of "Review of the Hiring and Managing Practices for Appointed Consultants and Experts in the Department of Health and Human Services." Since many of the issues discussed in the report involve personnel management authorities that I have delegated directly to the OPDIVs, I have sent the report to OPDIV Heads for their comment. I have directed them to validate the findings and to provide me with action plans to correct any personnel management deficiencies cited in the review (Attachment A). When I receive the OPDIV responses, I will share them with you.

In order to assure the integrity of personnel administration in this area, I have also directed the OPDIV and Regional Personnel Officers to take certain actions to assure full regulatory compliance in their areas of responsibility (Attachment B).

As the report indicates, the majority of consultants hired by HHS work for the Public Health Service. I, along with the ASH, do not agree with certain policy changes recommended in the report. We believe that HHS policy on how experts and consultants are paid should not be changed. Moreover, it would be very difficult for HHS to obtain the substantial services of renowned medical experts or scientists if we were required to pay them on an hourly basis.

HHS Instruction 304-1-f(2) requires that temporary experts and consultants be paid on an hourly basis. However, intermittent experts and consultants, who are often paid on a daily basis, usually work for a very few days, and it would not be cost effective for the Department to measure their contributions in terms of the number of hours worked. The report described no specific infractions of Federal law or regulations or abuse of policy involving pay of experts and consultants. There are times in which experts and consultants must work more than eight hours

in a day, and in these cases, HHS is prohibited from paying them overtime or for the actual number of hours they work. Even when consultants and experts do spend less than an entire day providing services for HHS, they often must interrupt their normal professional pursuits for an entire day.

In addition, we believe it would not be practical to establish a system of assessing the work of experts and consultants because of the nature and duration of such assignments. There are no laws or regulations that require Federal agencies to establish performance management systems for experts and consultants, We have reminded our personnel staffs that all appointments and recertification of experts and consultants must be signed by appropriate management officials who, in the case of recertification, are knowledgeable about the quality of the work of the expert or consultant.

If there are any questions concerning this subject, your staff may contact James Delaney on my staff at 475-0059.



Thomas S. McFee

Attachment



Washington, D.C. 20201

DATE: DEC 20 1991

FROM: Assistant Secretary for
Personnel Administration

SUBJECT: Review of the Hiring and Managing Practices for
Appointed Consultants and Experts in the Department of
Health and Human Services (A-15-91-00011)


TO: Heads of Operating Divisions

Attached is a draft of a report from the office of the Inspector General regarding the use of consultants and experts in the Department of Health and Human Services. I realize that you were sent a copy for informational purposes. Because the review addresses personnel management authorities that I have delegated to OPDIV Heads, I am also sending you a copy for your review and comment.

Please send me your comments and your action plan to correct any deficiencies regarding the employment of experts and consultants in your OPDIV by January 17, 1992. Such plans should be sent to the attention of:

Charles J. McCarty, III
Acting Director, Center for Human Resource Strategic
Planning and Policy
HHH Building - Room 500E
200 Independence Avenue, S.W.
Washington, D.C. 20201

I appreciate your attention to this matter. Any questions should be directed to Jim Delaney, FTS 475-0059 **or** Gretchen Menn, FTS 475-0036.



Thomas S. McFee

Attachment



Washington, D.C. 20201

DATE: DEC 27 1991

FROM: Assistant Secretary for
Personnel Administration

SUBJECT: Review of the **Hiring** and Managing Practices for
Appointed Consultants and Experts in the Department of
Health and Human Services (A-15-91-00011)

TO: OPDIV and Regional Personnel Officers

The Office of the Inspector General has recently issued a draft report, "**Review** of the Hiring and Managing Practices for Appointed Consultants and Experts in the Department of Health and Human **Services.**" The report cited a number of deficiencies on the part of agency management. The review also found deficiencies in some personnel administration areas. These include controls regarding conflict of interest, time and attendance, approval of appointments, and the assignments and recertification of experts and consultants.

The purpose of this memorandum is to highlight aspects of the **IG's** report that deal with personnel administration responsibilities. We hope that these can serve as reminders to **your** personnel office staffs when they work with OPDIV managers in employing consultants and experts.

- 0 Controls to Prevent Conflict of Interest - The OIG **review** found several instances in which consultants' financial disclosure forms were missing, contained inadequate **informa-**tion, had not been approved by appropriate officials, or had **been** approved on dates after consultants began work. HHS Instruction 304-1 clearly requires that experts and consultants must complete and submit either a SF 273 "Executive Personnel Financial Disclosure **Report**" or a Form HHS 474 "Confidential **Statement** of Employment and Financial Interests," prior to beginning work.

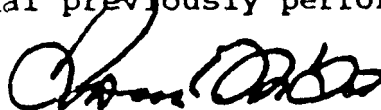
If an expert or consultant begins work before these forms are submitted, the appointment is improper and corrective actions must be taken. This corrective action could require that the individual's services be terminated, thus creating embarrassment for the Department and possible hardship for the employee.

- o Time and Attendance - The OIG review described several instances in which consultants' time cards were inappropriately completed, reviewed, and/or approved. HHS Instruction 304-1-100 requires that HHS Form 560 "Expert/Consultant Time and Attendance Report" be prepared for each bi-weekly pay period in which an expert or consultant performs services. Chapter 22 of the HHS Guide for Timekeepers covers the requirements for timekeeping for experts and consultants. Personnel officers are responsible for informing management about these time and attendance requirements.
- o Hiring Approvals of Experts and Consultants - The OIG review found instances in which HHS components had employed experts or consultants without approval by the appropriate officials. Office of Management and Budget (OMB) Circular A-120 specifies that any expert or consultant appointment be approved at a level above the sponsoring organization. HHS Instruction 304-1 requires that consultant appointments and their extensions be approved both by management officials who have selection authority and by officials who have appointing authority.

Both selecting and appointing officials must certify the necessity of the appointment as well as the appropriateness of all aspects of such appointments. All consultant appointments must be approved prior to their effective dates.

- o Assignments and Recertification - The IG review reported incidents in which experts or consultants were performing duties other than those delineated on HHS 410s. HHS Instruction 304-1-80-A specifies that both program managers and appointing officials are responsible for ensuring the appropriateness of services performed by experts or consultants.

Program managers and appointing officials are also responsible for ensuring that the services performed by experts and consultants are the actual duties of record. OPDIV managers must be reminded of the requirement that when there are changes in the duties of an expert or consultant, a revised HHS-410 must be submitted. When an expert or **con-**sultant is recertified, recertification must be submitted by a management official who is knowledgeable about the quality of the work the individual **previously performed.**



Thomas S. McFee



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
APPENDIX B

Washington, D. C. 20201

DATE: FEB 19 1992

FROM: Assistant Secretary,
for Personnel Administration

IG
PDIG
DIG-AS
DIG-EI
DIG-OI
AIG-MP
OGC/IG
EX SEC
OFF SENT

SUBJECT: OPDIV Responses to "Review of Hiring and Management Practices for Appointed Consultants and Experts in the Department of Health and Human Services" (A-15 91-00011)

TO: Richard P. Kusserow
Inspector General

In my December 20, 1991 memorandum to you I responded to items relating to personnel administration that were addressed in the draft Of the **OIG report**, "Review of Hiring and Management Practices for Appointed Consultants and Experts in the Department of Health and Human **Services**." I also promised to request and then share with you OPDIV **action** plans for correcting personnel management deficiencies cited in the draft. We received response8 from all the operating divisions. OPDIV response8 to my memorandum are attached.

The Social Security Administration (SSA), the Administration for Children and Families (ACF), and the Public Health **Service** (PHS) all indicated that they have made senior staff aware of the personnel management deficiencies addressed in the draft report and have developed action **plans** to prevent such deficiencies from occurring in the future. In PHS, procedures for the employment of experts and consultants were reviewed with individual health agencies and, when **cases** cited in the report could be identified, corrective actions were taken.

ACF has made a policy change which requires that all future authorization8 for expert or consultant appointments in that organization be approved by the Deputy **Assistant Secretary for Operations**. In addition, ACF plan6 to include specific **procedures** for recording the time and attendance of experts and consultants in all training for it6 timekeepers.

HCFA has developed a procedural checklist for the employment of experts and consultants and also plans to develop an **internal policy guide** to instruct supervisors on the proper use of experts and consultants.

The **OIG** draft report makes several references to **OMB Circular A-120**, "Guidelines for the **Use** of Advisory and Assistance **Services**." Several of these references concern the evaluation of expert and consultant services. OPDIV comments regarding the